IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15476 of 2005

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the civil judge?

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RAMANBHAI BECHARBHAI PATEL - Petitioner
Versus
GENERAL MANAGER-WESTERN RAILWAY & 1 - Respondents

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Appearance :
MS PAURAMI B SHETH for Petitioner
MR RAMESH F CHAUHAN for Respondent No.1
MS MEGHA JANI for Respondent No. 2

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE MD SHAH

Date : 18/09/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

Heard Ms.P.B.Sheth, learned Advocate for the petitioner and Ms.Megha Jani, learned Advocate for the respondents.

The petitioner - original applicant, has challenged in this petition the impugned order dated 28.04.2005 passed by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad (for short “Tribunal”) in O.A. No. 106 of 2004, dismissing his application on the ground of delay and laches in challenging the impugned order dated 15.07.1996 before the Tribunal.

Ms.Sheth, learned Advocate for the petitioner submitted, that after the impugned order dated 15.07.1996 was passed by the respondent – authority, the petitioner – original applicant continued to make representations after representations. However, one of the representations was decided by the authority in the year 2003. Therefore, the petitioner had approached the Tribunal by way of filing O.A.No. 106 of 2004 and, therefore, the Tribunal was wrong in rejecting his application on the ground of delay and laches in not challenging the impugned order dated 15.07.1996 well in time.

The petitioner has also annexed copy of O.A. No. 106 of 2004 filed before the Tribunal along with this

petition. From the perusal of the said application, it is clear that the applicant had not challenged the impugned order dated 15.07.1996 in the application. What was challenged by him before the Tribunal was the impugned order dated 04.02.2003 rejecting his one of the representations.

Ms.Sheth, learned Advocate for the petitioner conceded that inadvertently, the impugned order dated 15.07.1996 was not challenged before the Tribunal but according to her, once the representation of the petitioner was later on decided, then the learned Tribunal should not have dismissed it on technical ground of delay and laches by not challenging the original order. This submission of Ms.Sheth cannot be accepted for more than one reasons.

The petitioner had retired from service on 30.04.1998 after the original impugned order dated 15.07.1996 was passed. After the impugned order passed in 1996, the petitioner continued to make representations but merely because one of his representations was decided in 2003, it would not give him any right to challenge the impugned order passed in the year 1996 after gross delay of several years. In case of **State of Haryana and Ors. V/s. Ajay Walia reported in (1997) 6 SCC 225,** the Hon'ble Supreme Court has held that repeated representations would not furnish the cause of action. Relying on this judgment of the Hon'ble Supreme Court, this

petition is required to be dismissed.

In view of the above discussion, this petition fails and is hereby dismissed. Rule is discharged. No costs.

[B.J.SHETHNA, J.]

[M.D.SHAH, J.]

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